
First Session, Forty-third Parliament
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Legislative Assembly of British Columbia

BILL M _____

**PROTECTING MINORS FROM GENDER
TRANSITION ACT**

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Explanatory Note

This Bill provides for the following:

- transparency in schools regarding students and gender transition;
- prohibitions on the use of public facilities and public funding for certain purposes;
- the regulation of medical procedures in respect of minors;
- rights of action.

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HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of British Columbia, enacts as follows:

PART 1 – INTERPRETATION

Definitions

1 In this Act:

- “**female**” means a person who is a member of the female sex;
- “**gender**” means the psychological, behavioral, social, and cultural aspects of being male or female;
- “**gender dysphoria**” means the diagnosis of Gender Dysphoria under the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition, published by the American Psychiatric Association in 2013;
- “**healthcare professional**” means a physician or any person who is licensed, certified, or otherwise authorized by the laws of British Columbia to administer health care in the ordinary course of the practice of the person’s profession;
- “**male**” means a person who is a member of the male sex;
- “**minor**” means a person under the age of 19 years;
- “**parent**” means a parent, guardian, or other person lawfully entitled to exercise parental responsibilities with respect to a minor;
- “**perceived gender**” means a person’s internal sense of his or her gender;
- “**perceived sex**” means the psychological, behavioral, social, and cultural aspects of being male or female;
- “**physician**” means a medical practitioner as defined in section 29 of the *Interpretation Act*;
- “**school**” means a school within the meaning of the *School Act*;
- “**school district**” means a school district within the meaning of the *School Act*;
- “**school year**” means school year as defined in the *School Act*;
- “**sex**” means the biological indication of male or female in the context of reproductive potential or capacity, taking into account sex chromosomes, naturally occurring sex hormones, gonads, non-ambiguous internal and external genitalia present at birth, and secondary sex characteristics, without regard to a person’s psychological, chosen, or subjective experience of gender;

“social transitioning” means acts other than pharmaceutical or surgical interventions that are offered as a treatment to a person for the purpose of the person presenting as a member of a sex other than the person’s sex, including changing the person’s preferred pronouns or wearing clothing or devices, such as binders, for the purpose of concealing the person’s secondary sex characteristics;

“student” means a minor who is a student within the meaning of the *School Act*.

PART 2 – TRANSPARENCY IN SCHOOLS

Notification to parents

- 2 An official, employee or agent of a school, or any other person acting on behalf of a school, who learns that a student’s sex is inconsistent with the student’s perceived gender or perceived sex must, within three business days, notify the student’s parent.

Discussion with students

- 3 An official, employee or agent of a school, or any other person acting on behalf of a school must not discuss any of the following with a student as a possible treatment to address an inconsistency between the student’s sex and the student’s perceived gender or perceived sex:
 - (a) a procedure or treatment set out in section 16 or 17;
 - (b) social transitioning.

Use of pronouns

- 4 An official, employee or agent of a school, or any other person acting on behalf of a school must not use a pronoun in relation to a student that is inconsistent with the student’s sex.

Use of spaces designated by sex

- 5 An official, employee or agent of a school, or any other person acting on behalf of a school, must not authorize or permit a student to use a restroom, locker room, or changing facility that is inconsistent with the student’s sex.

Content of materials

- 6 An official, employee or agent of a school, or any other person acting on behalf of a school must not provide, display, or make available, in any classroom, library, curriculum, or school-sponsored program any material that promotes, encourages or normalizes social transitioning or a procedure or treatment set out in section 16 or 17 as a treatment to address an inconsistency between a student’s sex and a student’s perceived gender or perceived sex.

School district policy

- 7 (1) Before the beginning of each school year, a school district must prepare and make publicly available a policy setting out the measures the school district will take to implement, monitor, and ensure compliance with sections 2 to 6.
- (2) A school district must provide parents of students in the school district with a reasonable opportunity to comment on the policy made under subsection (1).

Discipline of school officials

- 8 An official, employee or agent of a school, or any other person acting on behalf of a school, who contravenes this Part must be disciplined in accordance with the disciplinary policies applicable to the person.

Right of action – parents

- 9 (1) A parent of a student who is the subject of treatment that is not in accordance with a policy made under section 7 (1) has a right of action for damages resulting from the contravention and such equitable relief as the court may determine.
- (2) The court may award reasonable costs to a successful party.

PART 3 – PUBLIC FACILITIES AND PUBLIC FUNDING

Use of public funds

- 10 Public funds must not be directly or indirectly used, granted, paid, or distributed to any entity, organization, or individual that provides or subsidizes the use of any of the procedures or treatment set out in section 16 or 17 as a treatment to address an inconsistency between a minor's sex and the minor's perceived gender or perceived sex.

No promotion

- 11 An individual or entity that receives public funds to pay for or subsidize the treatment of minors for psychological conditions, including gender dysphoria, must not use public funds to promote or advocate the use of any of the procedures or treatment set out in section 16 or 17 as a treatment to address an inconsistency between a minor's sex and the minor's perceived gender or perceived sex.

Ineligible for tax deduction

- 12 An amount paid by an individual or entity during a taxable year for the provision of a procedure or treatment set out in section 16 or 17 as a treatment to address an inconsistency between a minor's sex and the minor's perceived gender or perceived sex is not tax deductible.

Ineligible for Medical Services Plan coverage

- 13 The Medical Services Plan must not reimburse or provide coverage in respect of a procedure or treatment set out section 16 or 17 as a treatment to address an inconsistency between a minor's sex and the minor's perceived gender or perceived sex.

Use of provincial property

- 14 A provincial property, facility, or building must not be used to promote or advocate the use of social transitioning or a procedure or treatment set out in section 16 or 17 as a treatment to address an inconsistency between a minor's sex and the minor's perceived gender or perceived sex.

Communication by provincial employees

- 15 A provincial employee whose official duties include the care of minors must not, while engaged in those official duties, provide or promote the use of social transitioning or a procedure or treatment set out in section 16 or 17 as a treatment to address an inconsistency between a minor's sex and the minor's perceived gender or perceived sex.

PART 4 –MEDICAL PROCEDURES FOR MINORS

Medical procedures for female minors

- 16 A person must not knowingly provide any of the following procedures or treatments to a female minor to address the minor's perception that her gender or sex is not female:
- (a) surgical procedures including a vaginectomy, hysterectomy, oophorectomy, ovariectomy, reconstruction of the urethra, metoidioplasty, phalloplasty, scrotoplasty, implantation of erection or testicular prostheses, subcutaneous mastectomy, voice surgery, and implantation of pectoral implants;
 - (b) administering supraphysiologic doses of testosterone or other androgens;
 - (c) administering puberty blockers such as GnRH agonists or other synthetic drugs that suppress the production of estrogen and progesterone to delay or suppress pubertal development in female minors.

Medical procedures for male minors

- 17 A person must not knowingly provide any of the following procedures or treatments to a male minor to address the minor's perception that his gender or sex is not male:
- (a) surgical procedures including a penectomy, orchiectomy, vaginoplasty, clitoroplasty, vulvoplasty, augmentation mammoplasty, facial feminization surgery, voice surgery, thyroid cartilage reduction and gluteal augmentation;

- (b) administering supraphysiologic doses of estrogen;
- (c) administering blockers such as GnRH agonists or other synthetic drugs that suppress the production of testosterone, or delay or suppress pubertal development in male minors.

Treatment for disorder of sex development

- 18** Sections 16 and 17 do not apply in respect of a minor in any of the following circumstances:
- (a) the minor was born with a medically verifiable disorder of sex development, including being born with 46 XX chromosomes with virilization, and has external biological sex characteristics that are irresolvably ambiguous or has both ovarian and testicular tissue;
 - (b) the minor has been diagnosed by a physician as having been born with a disorder of sexual development through genetic or biochemical testing that has confirmed that the minor does not have normal sex chromosome structure, sex steroid hormone production, or sex steroid hormone action for a male or female;
 - (c) the minor requires a procedure or treatment set out in section 16 or 17 as treatment for an infection, injury, disease, or disorder that has been caused or exacerbated by the performance of a procedure listed in either of those sections, whether or not the procedure was performed in accordance with provincial or federal law and whether or not funding for the procedure is permissible under provincial or federal law.

Discipline of healthcare professionals

- 19** (1) A healthcare professional who contravenes this Part has engaged in professional misconduct and is subject to discipline by the appropriate licensing entity or disciplinary review board.
- (2) Discipline by the appropriate licensing entity or disciplinary review board must include suspension of the healthcare professional's ability to administer healthcare or practice medicine for at least one year.

Right of action – parents

- 20** (1) A parent of a minor who is the subject of treatment in contravention of this Part has a right of action for damages resulting from the contravention and such equitable relief as the court may determine.
- (2) The court may award reasonable costs to a successful party.

PART 5 – RIGHT OF ACTION FOR SUBSEQUENT HARM

Legal liability

- 21** A healthcare professional who provides a procedure or treatment set out in section 16 or 17 as a treatment to address an inconsistency between a minor's sex and the minor's perceived gender or perceived sex is liable to that minor if the procedure or treatment results in an injury to the minor, including physical, psychological, emotional, or physiological harm, within the period that is 25 years from the date of conclusion of the procedure or treatment.

Right of action

- 22** (1) A person who suffers an injury referred to in section 21, or a representative or legal guardian on behalf of the person, may commence an action against a healthcare professional in a court of competent jurisdiction for any or all of the following:
- (a) declaratory or injunctive relief;
 - (b) compensatory damages for, including but not limited to, pain and suffering, loss of reputation, loss of income, and loss of consortium, which includes the loss of expectation of sharing parenthood;
 - (c) punitive damages;
 - (d) any other relief;
 - (e) costs, fees or expenses.
- (2) Subject to subsections (3) and (4), an action may be commenced at any time within the later of the following:
- (a) 25 years from the day the person reaches 19 years of age;
 - (a) 4 years from the date of discovery by the person of both the injury and the causal relationship between the procedure or treatment and the injury.
- (3) If the person is under a legal disability at the time the person reaches 19 years of age, the limitation period referred to in subsection (2) does not begin to run until the removal of the disability.
- (4) The limitation period referred to in subsection (2) does not run during a period when the person is subject to threats, intimidation, manipulation, fraudulent concealment, or fraud perpetrated by the healthcare professional who provided the procedure or treatment or by any person acting in the interest of the healthcare professional.

No waiver

- 23** (1) A healthcare professional may not avoid or contract out of this Part.
- (2) Any attempt to avoid or contract out of this Part is of no effect.

Statutory limit does not apply

- 24 Despite any other Act, the damages that may be sought and awarded pursuant to this Part is not limited.

Administrative remedies

- 25 Despite any other Act, an action under this Part may be commenced and relief may be granted in a legal proceeding without regard to whether the person commencing the action has sought or exhausted available administrative remedies.

Attorney General

- 26 The Attorney General may bring an action to enforce compliance with this Part.

Other parties

- 27 This Part does not deny, impair, or otherwise affect any right or authority of the Attorney General, the Province, or any agency, officer or employee of the Province, acting under any other enactment or law, to commence or intervene in any legal proceeding.

PART 6 – PROHIBITED INSURANCE COVERAGE

No insurance coverage

- 28 (1) A professional liability insurance policy issued to a healthcare professional may not include coverage for damages awarded against the healthcare professional who provides any procedure or treatment set out in section 16 or 17 as a treatment to address an inconsistency between a minor's sex and the minor's perceived gender or perceived sex.
- (2) Any coverage referred to in subsection (1) or attempt to avoid or contract out of subsection (1) is of no effect.

PART 7 – GENERAL PROVISIONS

Severability

- 29 If any provision of this Act is found invalid, such provision is severable.

Transitional provision

- 30 This Act does not apply in respect of the provision of cross-sex hormones to a minor, before the date this Act comes into force, to treat an inconsistency between the minor's sex and the minor's perceived gender or perceived sex.

Offence Act

- 31 Section 5 of the *Offence Act* does not apply to this Act or the regulations.

This Act prevails

32 If there is a conflict between this Act and any other enactment, this Act prevails.

Regulations

33 The Lieutenant Governor in Council may make regulations referred to in section 41 of the *Interpretation Act*.

Notwithstanding clause

34 This Act, and every provision of it, shall operate notwithstanding sections 2 and 7 to 15 of the *Canadian Charter of Rights and Freedoms*.

Commencement

35 This Act comes into force on the date that is six months after the date of Royal Assent.